IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.364 OF 1995.

Sou Alka W/o Ramesh Jagtap : Appellant.

versus

The Collector of Sangli District: Respondent.

WITH

FIRST APPEAL NO.362 OF 1995

Kum. Rajashri Mohanlal Shah

& Anr. : Appellants.

versus

The Collector of Sangli District: Respondent.

Mr.N.V.Walawalkar for the appellants in both the appeals.

Mr.S.N.Gawade, AGP, for the Respondent.

CORAM : D.G.DESHPANDE,J.

DATED : 7th February 2005.

ORAL ORDER

1. Heard advocate for the appellants and AGP for the respondent. Two plots, adjoining each other in the city of Sangli, were acquired by the Government for the purpose of construction of building for Municipal Civil Dispensary at Sangli. Government determined the compensation at Rs.200/- per sq.mtr. The claimants filed two References vide Land Acquisition Reference Nos. 10 of 1989 and 11 of 1989 claiming Rs.50 to Rs.60 per sq. ft. i.e. Rs.500 to Rs.600 per sq.mtr. The claimants also relied upon certain documents. But the Court, after scrutiny, found that all those sale instances, brought on record by the claimants, were in respect of the property, i.e. plot plus building. Therefore, the court held that there was no sale instance only respect of plot and, therefore, contention of the claimants could not be accepted. The Court, however, taking into consideration the localation of the plots which has been described in para 8 of the impugned judgment awarded Rs.240/- per sq.mtr. As per that description, the plots in question are adjacent to each other and situated at the

important locality of Sangli town. To the eastern side, there is a Saraswati Theatre. There is Rajlaxmi complex in between Cinema Theatre and acquired land. To the western side, there is a office of D.C.C. Bank and, Lodging and Mechanical Shops and there is a 50 ft. road of the Municipal council. To the southern side, there is Padma theatre and Lodging, Boarding etc. To the Northern side there is truck parking and Nhagyedaya Complex. On that basis the Court found that compensation was not adequate and awarded Rs.240 sq.mtr.

2. The counsel for the appellants contended that if the plots were located in a busy commercial complex, then considering the situation and locality alone, the Court should have awarded reasonable compensation, though not the compensation as claimed. According to him, Rs.240/- per sq.mtr. which comes to Rs.24/- per sq.ft. was not at all adequate compensation taking into consideration the year of notification i.e. 1987.

3. I find considerable force in the submission made by the counsel for the

appellants. It is undoubtedly clear that the plots were in the busiest commercial locality surrounded by developed roads, theatres and commercial complexes and, therefore, even though the sale instances could not be taken into consideration, the compensation should have been on higher scale than one awarded by the trial Court.

4. As against this, the learned AGP contended that there was a Nala or ditch in the plots and amount of Rs.90,000/- was required to be spent for development of the property. He also relied upon the unreported judgment of this Court in First Appeal No.758 of 1988 and contended that 20% development charges are required to be deducted. There is an admission of the power of attorney of the claimant that to the Western side of the acquired plots and adjacent to the plots there is a Nala. Development charges will have to be, therefore, given to the acquiring authority. Claim in that regard of the Authority is about Rs.90,000/- but, in my opinion, considering the circumstances, Rs.70,000/- would be proper. Hence I pass the following order :-

:ORDER:

The appeal is partly allowed.

The claimants/appellants will be entitled to Rs.350/- per sq.mtr. as compensation and, from out of the compensation payable, Rs.70,000/- will be deducted towards development charges.

The claimants/appellants will be entitled for interest at the rate of 9% on the compensation enhanced by this Court from the date of appeal till payment with consequential benefits at the same rate.

Both the appeals are disposed of accordingly.

[D.G.DESHPANDE]

07/02/2005 JUDGE.